IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 7079 of 1988

For Approval and Signature:

Hon'ble MR.JUSTICE C.K.THAKKAR

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

C A PATEL

Versus

STATE OF GUJARAT

Appearance:

MR IM BENGALI for Petitioners

MR L.R.PUJARI, AGP for Respondent No. 1

CORAM : MR.JUSTICE C.K.THAKKAR

Date of decision: 18/02/2000

ORAL JUDGEMENT

In this petition, the order passed by the Additional Chief Secretary (Revenue) (Appeals) , State of Gujarat dated May 4, 1988 at Annexure `B' to the petition confirming the order passed by the City Deputy Collector dated August 10, 1987, is challenged.

It appears that proceedings were initiated against the petitioners under the Bombay Prevention of Fragmentation and Consolidation of Holdings Act, 1947 (hereinafter referred to as `Act'). It was the case of the

authorities that while partitioning the property, provisions of the Act have been violated by them. The partition is said to have taken place on August 29, 1975. The case of the petitioners is that they were exempted from standard area in the year 1976 and hence, such partition could have been made by the petitioners.

I am not expressing any opinion whether exemption was or was not granted in 1976 . The fact, however, remains that proceedings were initiated by the City Deputy Collector in 1985 i.e. after ten years of partition. In my opinion, therefore, proceedings cannot be said to have been initiated within reasonable period , as held by the Supreme Court and of this Court in several cases. (vide State of Gujarat vs. Patel Raghav Natha, AIR 1969 SC 1267 , Jiviben Kalaji Bapuji vs. State of Gujarat and others, 1998 (2) GLH 556, Rathod Nayamatkhan Ahmedkhan vs. M.K.Dass, 1998 (2) GLH 459 and Mohmad Kavi Mohamad Amin vs Fatmabai Ibrahim, (1997) 6 SCC 71).

Since proceedings in the present case were not initiated within reasonable time, the petition deserves to be allowed and is accordingly allowed. Orders passed by the Additional Chief Secretary (Revenue) (Appeals) dated May 4, 1988 as well as City Deputy Collector dated August 10, 1987 are quashed and set aside. Rule made absolute. No order as to costs.

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